

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COOKEVILLE DIVISION**

IN RE:)
)
Angelia Nichole Shockley,) **BK No. 19-00138-MH3-7**
)
Debtor(s).)

**EXPEDITED MOTION TO SET HEARING ON MOTION TO COMPEL DEBTOR TO
COOPERATE WITH TRUSTEE**

Comes Erica R. Johnson, Trustee, (the “Trustee”) by and through counsel, and files this Expedited Motion to set hearing on Motion to Compel Debtor to Cooperate with Trustee. In support thereof, the Trustee would state and show:

A. Expedited Relief Requested:

1. The Trustee requests that the Court set an expedited hearing to approve the Motion to Compel Debtor to Cooperate with Trustee on or before June 9, 2020.

B. Urgency of Such Request:

1. The Trustee is attempting to inspect, value and sell the Real Property (as defined below).

2. Pursuant to Order Granting Default Judgment entered January 24, 2020 (Docket Entry 23 in Case 2:19-ap-90110) (the “Default Judgment”), title to the Real Property has been revested to the Debtor for the purpose of the administration of the Real Property for the benefit of the bankruptcy estate. Time is of the essence as the Debtor has been occupying the Real Property since at least January 24, 2020 without paying rent, has not insured the Real Property, forcing the Trustee to obtain homeowner’s insurance, and is now not cooperating with the Trustee and/or her realtor.

C. **Service of Expedited Motion:**

1. Notice of this Expedited Motion was provided electronically via ECF Notice to the U.S. Trustee, ustpre08.na.ecf@usdoj.gov, Lefkovitz and Lefkovitz, PLLC, Attorneys for Debtor, slefkovitz@lefkovitz.com, and all creditors and/or parties of interest who are registered with the Court to receive ECF Notices.

2. Notice of this Expedited Motion was also served via regular U.S. Mail upon Angelia Nichole Shockley, 2088 Buffalo Valley Road, Cookeville, Tennessee 38501.

3. Additionally, the Order setting the expedited hearing will be served via regular U.S. Mail upon Angelia Nichole Shockley, 2088 Buffalo Valley Road, Cookeville, Tennessee 38501. The Trustee will file a Certificate of Service for such service.

D. **Suggestion for Hearing:**

1. The Trustee proposes that this Expedited Motion should be set for hearing on Tuesday, June 9, 2020 at 9:00 a.m., in Courtroom 3, Second Floor, Customs House, 701 Broadway, Nashville, Tennessee 37203.

E. **Other Statement/Argument in Support of Requested Relief:**

1. Angelia Nichole Shockley (the “Debtor”) commenced the above-captioned case by filing a voluntary chapter 11 petition on January 10, 2019, which was subsequently converted to chapter 7 on February 5, 2020.

2. The Trustee is the duly appointed and acting trustee in this chapter 7 proceeding.

3. Pursuant to the Default Judgment, real property known as 2088 Buffalo Valley Road, Cookeville, Tennessee 38501 (the “Real Property”) is property of the bankruptcy estate pursuant to 11 U.S.C. § 541.

4. Upon information and belief, prior to November 2018, the Real Property was not

encumbered by any liens.

5. On or about November 28, 2018, a lien was granted in favor of American Bank & Trust of the Cumberland (the “Lender”) against the Real Property in the amount of \$175,000.00.

6. Jason Brubacher (“Mr. Brubacher”), through the Order Granting Derivative Standing to Pursue Avoidance Actions entered April 17, 2019 (Docket Entry 25), has filed an adversary proceeding against the Lender to avoid its lien against the Real Property. *See* Case 2:20-ap-90020. (the “Avoidance Lawsuit”)

7. Mr. Brubacher is the Debtor’s ex-husband and a creditor in this case.

8. Even assuming Mr. Brubacher is not successful in the Avoidance Lawsuit, the Trustee believes there is sufficient equity in the Real Property above the lien of the Lender to sell on behalf of the bankruptcy estate.

9. Since the entry of the Default Judgment on January 24, 2020, the Debtor has been on notice of the intent to sell the Real Property on behalf of the bankruptcy estate.

10. On or about March 6, 2020, after consulting with counsel for Mr. Brubacher, the Trustee emailed the Debtor’s attorney advising him of her intentions to sell the Real Property and requesting the Debtor’s contact information for the realtor.

11. On or about March 12, 2020, counsel for the Debtor responded to the Trustee’s March 6, 2020 email and advised that he attempted to contact his client (the Debtor) but did not receive a response. Nevertheless, the Debtor’s attorney provided the Trustee with the Debtor’s cell phone number.

12. Due to the March 2, 2020 tornado and the COVID-19 Pandemic, the Trustee extended the Debtor courtesy and did not send the realtor the contact information until May 1, 2020, which is the same date the Debtor attended her rescheduled meeting of creditors (via

telephone).

13. The Trustee's realtor has made multiple attempts to contact the Debtor to make arrangements to inspect and value the Real Property; however, the Debtor is not answering the realtor's calls and/or texts, and has even hung up on the realtor.

14. On or about May 11, 2020, after being advised by the realtor that the Debtor was unresponsive, the Trustee emailed counsel for the Debtor and requested assistance in contacting the Debtor. To date, counsel for the Debtor has not responded to the Trustee's May 11, 2020 email.

15. To date, the Debtor has failed to cooperate with the Trustee and contact the realtor to make arrangements for him to inspect and value the Real Property.

16. The Debtor's failure to cooperate with the Trustee (i.e. evading the realtor's attempts to inspect and value the Real Property) is hindering the Trustee's ability to value and sell the Real Property on behalf of the bankruptcy estate, while the Debtor continues to benefit from the use of the Real Property.

17. The Trustee now seeks an Order compelling the Debtor to cooperate with the Trustee.

WHEREFORE, the Trustee respectfully requests the following relief:

- A. That the Court set an expedited hearing on the Trustee's Motion;
- B. For an Order compelling the Debtor to cooperate with the Trustee including, but not limited to, giving the Trustee's realtor unfettered access to the Real Property for the purpose of valuing, listing, showing, and selling the Real Property.
- C. For an Order issuing sanctions against the Debtor if she fails to comply with the terms of the Order in the amount of \$100.00 per day for each day in which he fails to comply;

and

D. For such other relief as the Court deems just and proper.

Dated this 28th day of May, 2020

/s/ Erica R. Johnson
Erica R. Johnson (BPR No. 30939)
ERICA R. JOHNSON,
ATTORNEY AT LAW, PLLC
8161 Highway 100, Suite 184
Nashville, Tennessee 37221
(615) 347-5869 – Telephone
erica@erjlaw.com – Email
Attorneys for Trustee

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the Expedited Motion was served electronically via ECF email to the US TRUSTEE, ustregion08.na.ecf@usdoj.gov, Lefkovitz and Lefkovitz, PLLC, Attorneys for Debtor, slefkovitz@lefkovitz.com, and all creditors and/or parties of interest who are registered with the Court to receive ECF Notices; and via U.S. Mail upon Angelia Nichole Shockley, 2088 Buffalo Valley Road, Cookeville, Tennessee 38501 on the 28th day of May, 2020.

/s/ Erica R. Johnson
Erica R. Johnson